

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1220**

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**Introduced by Assembly Member Skinner**

February 22, 2013

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An act to amend Section 1785.15 of, *and to add Sections 1785.10.1 and 1785.20.4 to*, the Civil Code, relating to consumer credit.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1220, as amended, Skinner. Consumer credit reporting: files: inspections.

Existing law requires a consumer credit reporting agency, upon request and proper identification of any consumer, to allow the consumer to visually inspect all files maintained regarding that consumer at the time of the request. Existing law additionally grants a consumer the right to request and receive a written copy of the file. *Existing federal law prohibits a consumer credit reporting agency from prohibiting a user of a consumer credit report furnished by the agency from disclosing the contents of the report to the consumer if adverse action has been taken against the consumer by the user based on the report.*

This bill would require, if a consumer requests a written copy of his or her file, that the consumer receive the same information that is provided to a user of a consumer credit report, unless otherwise specified.

*The bill would make it unlawful for a consumer credit reporting agency to prohibit, or to dissuade or attempt to dissuade, a user of a consumer credit report furnished by the credit reporting agency from*

*providing a copy of the consumer's credit report to the consumer, upon the consumer's request, if the user has taken adverse action against the consumer based upon the report. The bill would require that a contract between a credit reporting agency and a user of a consumer credit report include a statement that federal law prohibits a consumer credit reporting agency from prohibiting a user of consumer credit reports from disclosing the contents of the report to the user, as specified. The bill would provide that a contract that violates these provisions is void and that the Attorney General or the district attorney of the county in which a violation of this section occurs may bring a civil action, or intervene in any civil action, to enjoin the enforcement of the contract.*

*The bill would provide a consumer the right to request and to receive a copy of his or her consumer credit report that is used in an adverse action against the consumer from a user of the report who takes the adverse action. The bill would require that, if a consumer authorizes a consumer credit reporting agency to furnish a consumer credit report for an extension of credit or any other lawful purpose, the user of the consumer credit report provide the consumer a specified notice in this regard.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1785.10.1 is added to the Civil Code, to  
2     read:  
3     1785.10.1. (a) It is unlawful for a consumer credit reporting  
4     agency to prohibit in any manner, including, but not limited to, in  
5     the terms of a contract enforceable in the state, or to dissuade or  
6     attempt to dissuade, a user of a consumer credit report furnished  
7     by the credit reporting agency from providing a copy of the  
8     consumer's credit report to the consumer, upon the consumer's  
9     request, if the user has taken adverse action against the consumer  
10    based in whole or in part upon information in the report. A contract  
11    between a credit reporting agency and a user of a consumer credit  
12    report for the provision of consumer credit reports shall include  
13    a statement that federal law prohibits a consumer credit reporting  
14    agency from prohibiting a user of consumer credit reports from  
15    disclosing the contents of the report to the user if adverse action  
16    has been taken by the user based in whole or in part on the report.

1     ***(b) A contract in violation of this section is void as contrary to***  
2     ***public policy. The Attorney General or the district attorney of the***  
3     ***county in which a violation of this section occurs may bring a civil***  
4     ***action, or intervene in any civil action, to enjoin the enforcement***  
5     ***of a contract that violates this section.***

6     **SECTION 1.**

7     **SEC. 2.** Section 1785.15 of the Civil Code is amended to read:

8     1785.15. (a) A consumer credit reporting agency shall supply  
9     files and information required under Section 1785.10 during normal  
10    business hours and on reasonable notice. If a consumer requests  
11    a written copy of his or her file, the consumer shall receive the  
12    same information that is provided to a user of a consumer credit  
13    report unless the consumer specifies otherwise. In addition to the  
14    disclosure provided by this chapter and any disclosures received  
15    by the consumer, the consumer has the right to request and receive  
16    all of the following:

17    (1) Either a decoded written version of the file or a written copy  
18    of the file, including all information in the file at the time of the  
19    request, with an explanation of any code used.

20    (2) A credit score for the consumer, the key factors, and the  
21    related information, as defined in and required by Section  
22    1785.15.1.

23    (3) A record of all inquiries, by recipient, that result in the  
24    provision of information concerning the consumer in connection  
25    with a credit transaction not initiated by the consumer and that  
26    were received by the consumer credit reporting agency in the  
27    12-month period immediately preceding the request for disclosure  
28    under this section.

29    (4) The recipients, including end users specified in Section  
30    1785.22, of any consumer credit report on the consumer which the  
31    consumer credit reporting agency has furnished:

32    (A) For employment purposes within the two-year period  
33    preceding the request.

34    (B) For any other purpose within the 12-month period preceding  
35    the request.

36    Identification for purposes of this paragraph shall include the  
37    name of the recipient or, if applicable, the fictitious business name  
38    under which the recipient does business disclosed in full. If  
39    requested by the consumer, the identification shall also include  
40    the address of the recipient.

(b) Files maintained on a consumer shall be disclosed promptly as follows:

(1) In person, at the location where the consumer credit reporting agency maintains the trained personnel required by subdivision (d), if he or she appears in person and furnishes proper identification.

(2) By mail, if the consumer makes a written request with proper identification for a copy of the file or a decoded written version of that file to be sent to the consumer at a specified address. A disclosure pursuant to this paragraph shall be deposited in the United States mail, postage prepaid, within five business days after the consumer's written request for the disclosure is received by the consumer credit reporting agency. Consumer credit reporting agencies complying with requests for mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after the mailings leave the consumer credit reporting agencies.

(3) A summary of all information contained in files on a consumer and required to be provided by Section 1785.10 shall be provided by telephone, if the consumer has made a written request, with proper identification for telephone disclosure.

(4) Information in a consumer's file required to be provided in writing under this section may also be disclosed in another form if authorized by the consumer and if available from the consumer credit reporting agency. For this purpose, a consumer may request disclosure in person pursuant to Section 1785.10, by telephone upon disclosure of proper identification by the consumer, by electronic means if available from the consumer credit reporting agency, or by any other reasonable means that is available from the consumer credit reporting agency.

(c) "Proper identification," as used in subdivision (b) means that information generally deemed sufficient to identify a person. Only if the consumer is unable to reasonably identify himself or herself with the information described above may a consumer credit reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his or her identity.

(d) The consumer credit reporting agency shall provide trained personnel to explain to the consumer any information furnished him or her pursuant to Section 1785.10.

1 (e) The consumer shall be permitted to be accompanied by one  
2 other person of his or her choosing, who shall furnish reasonable  
3 identification. A consumer credit reporting agency may require  
4 the consumer to furnish a written statement granting permission  
5 to the consumer credit reporting agency to discuss the consumer's  
6 file in that person's presence.

7 (f) Any written disclosure by a consumer credit reporting agency  
8 to any consumer pursuant to this section shall include a written  
9 summary of all rights the consumer has under this title and, in the  
10 case of a consumer credit reporting agency that compiles and  
11 maintains consumer credit reports on a nationwide basis, a toll-free  
12 telephone number that the consumer can use to communicate with  
13 the consumer credit reporting agency. The written summary of  
14 rights required under this subdivision is sufficient if in substantially  
15 the following form:

16 "You have a right to obtain a copy of your credit file from a  
17 consumer credit reporting agency. You may be charged a  
18 reasonable fee not exceeding eight dollars (\$8). There is no fee,  
19 however, if you have been turned down for credit, employment,  
20 insurance, or a rental dwelling because of information in your  
21 credit report within the preceding 60 days. The consumer credit  
22 reporting agency must provide someone to help you interpret the  
23 information in your credit file.

24 You have a right to dispute inaccurate information by contacting  
25 the consumer credit reporting agency directly. However, neither  
26 you nor any credit repair company or credit service organization  
27 has the right to have accurate, current, and verifiable information  
28 removed from your credit report. Under the Federal Fair Credit  
29 Reporting Act, the consumer credit reporting agency must remove  
30 accurate, negative information from your report only if it is over  
31 seven years old. Bankruptcy information can be reported for 10  
32 years.

33 If you have notified a consumer credit reporting agency in  
34 writing that you dispute the accuracy of information in your file,  
35 the consumer credit reporting agency must then, within 30 business  
36 days, reinvestigate and modify or remove inaccurate information.  
37 The consumer credit reporting agency may not charge a fee for  
38 this service. Any pertinent information and copies of all documents  
39 you have concerning an error should be given to the consumer  
40 credit reporting agency.

1 If reinvestigation does not resolve the dispute to your satisfaction,  
2 you may send a brief statement to the consumer credit reporting  
3 agency to keep in your file, explaining why you think the record  
4 is inaccurate. The consumer credit reporting agency must include  
5 your statement about disputed information in a report it issues  
6 about you.

7 You have a right to receive a record of all inquiries relating to  
8 a credit transaction initiated in 12 months preceding your request.  
9 This record shall include the recipients of any consumer credit  
10 report.

11 You may request in writing that the information contained in  
12 your file not be provided to a third party for marketing purposes.

13 You have a right to place a “security alert” in your credit report,  
14 which will warn anyone who receives information in your credit  
15 report that your identity may have been used without your consent.  
16 Recipients of your credit report are required to take reasonable  
17 steps, including contacting you at the telephone number you may  
18 provide with your security alert, to verify your identity prior to  
19 lending money, extending credit, or completing the purchase, lease,  
20 or rental of goods or services. The security alert may prevent credit,  
21 loans, and services from being approved in your name without  
22 your consent. However, you should be aware that taking advantage  
23 of this right may delay or interfere with the timely approval of any  
24 subsequent request or application you make regarding a new loan,  
25 credit, mortgage, or cellular phone or other new account, including  
26 an extension of credit at point of sale. If you place a security alert  
27 on your credit report, you have a right to obtain a free copy of your  
28 credit report at the time the 90-day security alert period expires.  
29 A security alert may be requested by calling the following toll-free  
30 telephone number: (Insert applicable toll-free telephone number).  
31 California consumers also have the right to obtain a “security  
32 freeze.”

33 You have a right to place a “security freeze” on your credit  
34 report, which will prohibit a consumer credit reporting agency  
35 from releasing any information in your credit report without your  
36 express authorization. A security freeze must be requested in  
37 writing by mail. The security freeze is designed to prevent credit,  
38 loans, and services from being approved in your name without  
39 your consent. However, you should be aware that using a security  
40 freeze to take control over who gets access to the personal and

1 financial information in your credit report may delay, interfere  
2 with, or prohibit the timely approval of any subsequent request or  
3 application you make regarding a new loan, credit, mortgage, or  
4 cellular phone or other new account, including an extension of  
5 credit at point of sale. When you place a security freeze on your  
6 credit report, you will be provided a personal identification number  
7 or password to use if you choose to remove the freeze on your  
8 credit report or authorize the release of your credit report for a  
9 specific party or period of time after the freeze is in place. To  
10 provide that authorization you must contact the consumer credit  
11 reporting agency and provide all of the following:

- 12 (1) The personal identification number or password.
- 13 (2) Proper identification to verify your identity.
- 14 (3) The proper information regarding the third party who is to  
15 receive the credit report or the period of time for which the report  
16 shall be available to users of the credit report.

17 A consumer credit reporting agency must authorize the release  
18 of your credit report no later than three business days after  
19 receiving the above information.

20 A security freeze does not apply when you have an existing  
21 account and a copy of your report is requested by your existing  
22 creditor or its agents or affiliates for certain types of account  
23 review, collection, fraud control, or similar activities.

24 If you are actively seeking credit, you should understand that  
25 the procedures involved in lifting a security freeze may slow your  
26 application for credit. You should plan ahead and lift a freeze,  
27 either completely if you are shopping around, or specifically for  
28 a certain creditor, before applying for new credit.

29 A consumer credit reporting agency may not charge a fee to a  
30 consumer for placing or removing a security freeze if the consumer  
31 is a victim of identity theft and submits a copy of a valid police  
32 report or valid Department of Motor Vehicles investigative report.  
33 A person 65 years of age or older with proper identification shall  
34 not be charged a fee for placing an initial security freeze, but may  
35 be charged a fee of no more than five dollars (\$5) for lifting,  
36 removing, or replacing a security freeze. All other consumers may  
37 be charged a fee of no more than ten dollars (\$10) for each of these  
38 steps.

39 You have a right to bring civil action against anyone, including  
40 a consumer credit reporting agency, who improperly obtains access

1 to a file, knowingly or willfully misuses file data, or fails to correct  
2 inaccurate file data.

3 If you are a victim of identity theft and provide to a consumer  
4 credit reporting agency a copy of a valid police report or a valid  
5 investigative report made by a Department of Motor Vehicles  
6 investigator with peace officer status describing your  
7 circumstances, the following shall apply:

8 (1) You have a right to have any information you list on the  
9 report as allegedly fraudulent promptly blocked so that the  
10 information cannot be reported. The information will be unblocked  
11 only if (A) the information you provide is a material  
12 misrepresentation of the facts, (B) you agree that the information  
13 is blocked in error, or (C) you knowingly obtained possession of  
14 goods, services, or moneys as a result of the blocked transactions.

15 If blocked information is unblocked, you will be promptly notified.

16 (2) You have a right to receive, free of charge and upon request,  
17 one copy of your credit report each month for up to 12 consecutive  
18 months.”

19 *SEC. 3. Section 1785.20.4 is added to the Civil Code, to read:*

20 *1785.20.4. (a) The federal Fair Credit Reporting Act (15*  
21 *U.S.C. Sec. 1681 et seq.) prohibits a credit reporting agency from*  
22 *stopping a user of a consumer report from disclosing the contents*  
23 *of the report to the consumer whom it concerns if adverse action*  
24 *is taken based on the report. A consumer has the right to request*  
25 *and to receive a copy of his or her consumer credit report that is*  
26 *used in an adverse action against the consumer from a user of the*  
27 *report who takes the adverse action against the consumer.*

28 *(b) If a consumer authorizes a consumer credit reporting agency*  
29 *to furnish a consumer credit report for an extension of credit or*  
30 *any other lawful purpose, the user of the consumer credit report*  
31 *shall notify the consumer orally and in writing, in substantially*  
32 *the form provided below, of the following:*

33  
34 *“You have authorized us to obtain a copy of your credit report*  
35 *as part of an application for credit or for some other lawful*  
36 *purpose. If we take adverse action on your application and our*  
37 *decision is based in whole or in part upon your credit report, you*  
38 *have a right to obtain a copy of the report from us that we receive*  
39 *from the consumer credit reporting agency. Neither state nor*



- 1 *federal law prevents you from obtaining a copy of your credit*
- 2 *report from us under those circumstances.”*

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